

Meeting Notes

St. Mary Rehabilitation Working Group

Marion Hills Golf Course, Malta, January 14, 2004

Present: See attached sign-in sheet

Opening

The meeting opened with remarks by Mayor Byron Ereaux and Lt. Governor Karl Ohs.

Progress Report

Paul Azevedo (State Coordinator for the Rehabilitation of St. Mary's) summarized progress since the Lt. Governor's Forum on January 18, 2003, in Havre

- Lt. Governor Ohs has submitted a letter to Montana's Congressional Delegation asking them to request US Bureau of Reclamation to draft legislation seeking funding for a Feasibility Study.
- Governor and Lt. Governor are scheduled to meet with USBR Commissioner Keys and Maryanne Bach (USBR Regional Director) in Helena on Friday, January 16.
- Lt. Governor will be setting up a meeting with Chairman St. Goddard of the Blackfeet Business Council to discuss their participation in rehabilitation of the St. Mary Facilities.

Review Purpose of St. Mary Rehabilitation Working Group

Lt. Governor Ohs briefly reviewed the purpose of the St. Mary Rehabilitation Working Group.

- The St. Mary Rehabilitation Working Group was created to find a "workable solution" for rehabilitating the St. Mary Facilities before the system suffers catastrophic failure. A workable solution does not mean a perfect solution, and it does not mean a solution with which every interest is 100% satisfied. A workable solution is one that can be implemented by the parties involved because those parties feel that, on balance, the solution is reasonable, sensible, and responsible.
- Currently, forty people have expressed an interest in being part of the Working Group. Although the Lt. Governor appreciated all the interest, he expressed concern that the group would lose efficiency and effectiveness if it were too large. He asked that the various interests groups decide among themselves who their representative would be. He would like to see the Working Group scaled back to 12 – 15 members.
- The comment was made that USBR contract pumpers need to be represented on the Working Group. Since the contract pumpers have no formal representation in the basin, the suggestion was made that USBR should contact and organize them. Pumpers with State water contracts should also be contacted.

St. Mary Rehabilitation Working Group Responsibilities.

Paul Azevedo presented a working draft of basic principles and guidelines for participation on the Working Group. The purpose of this document is to serve as a guide to govern the conversation and activities of the St. Mary Rehabilitation Working Group (Working Group). It describes the purpose, participants, and basic operating guidelines of the Working Group. It should help all participants understand their role and responsibilities in developing a process for efficiently and effectively addressing the need to rehabilitate the St. Mary Facilities. Participants of the Working Group may revise the principles and guidelines at any time.

USBR's OM&R Program and Rehabilitation of the St. Mary Facilities

Jerry Kelso (Assistant Regional Director, USBR Great Plains Region) gave an overview of the Bureau's Operation, Maintenance and Rehabilitation program and how that program is related to the St. Mary Facilities.

- USBR does not need Congressional authority to rehabilitate the St. Mary Facilities back to its original design capacity of 850 cfs. Replacement of old structures on an existing authorized project (such at St. Mary's) can be done under the Bureau's existing O&M authority.
- USBR does not want people to get the impression that USBR has not fixed St. Mary's because they lack Congressional authority to do so. USBR can do all the rehabilitation work under their existing O&M authority. The structures have not been rehabilitated or replaced because the project beneficiaries (irrigators in this case) cannot afford the estimated \$100 million cost.
- The Milk River Project was originally authorized as a single-use irrigation project. The only congressionally authorized beneficiaries of project construction are the Milk River irrigators. According to Reclamation law, the authorized beneficiaries are required to pay all O&M costs.
- There is no need to do a Feasibility Study (FS) if the beneficiaries (irrigators) only want to replace the old structures on the existing project. Changing the scope and operation of St. Mary's may require that an FS be completed. Examples:
 - Increasing canal capacity beyond 850 cfs would trigger need for an FS.
 - Increasing storage in Fresno would not require an FS if the dam was raised only enough to cover lost storage capacity. However, increasing storage beyond the original design capacity would require completion of an FS.
- Congress must authorize USBR to undertake an FS. Under Reclamation law, an FS for a water project requires a 50/50 cost share agreement. The FS must follow the practices spelled out in the Bureau's "Principles and Guidelines." Among other things, the FS must look at costs, environmental effects and the project's impact on the national economy. Jerry cautioned that completing an FS for the Milk River Project might bring up issues detrimental to the St. Mary Working Group's goal of rehabilitating the St. Mary Facilities.
- Jerry suggested the Working Group consider legislation for doing a benefit analysis of the project. This would show who currently receives benefits from the water brought over by St. Mary's. The benefit analysis would also determine how construction and O&M costs should be allocated among the identified beneficiaries. The official project authorization would then have to be amended to include the new identified beneficiaries. A new FS is not required to do this.
- Studies to comply with the National Environmental Policy Act (NEPA) and National Historic Preservation Act will have to be done once a preferred alternative for rehabilitating the system is identified.
- In response to a question regarding outfitting the drop structures for power production, Jerry said power production is currently not an authorized use. The project would have to be reauthorized to include power production.
- Jerry stated numerous times that the State could have access to the USBR's engineering information on replacing the St. Mary structures.

- Jerry felt USBR could be involved with the Working Group in several ways including providing input on Reclamation law and technical analysis.
- The USBR's North Central Montana Regional Feasibility Study was not really a Feasibility Study as the Bureau defines the term. The Regional FS did not include a preferred alternative analysis and did not include any NEPA compliance. The Regional FS was really a special study done to provide information for settling reserved water rights in the basin.

Review of Draft Study Legislation

John Tubbs (DNRC) reviewed a draft outline of legislation seeking federal funding to undertake any studies that need to be completed prior to starting construction on the St. Mary rehab.

- February 27 is the deadline for submitting legislation to Montana's Congressional delegation for this session. Federal funding would not be available until fall '04 at the earliest.
- Any studies will have to be done by the USBR, a private third-party contractor or some combination of the two.
- The Working Group needs to identifying the proper entity to serve as the non-federal lead role for overseeing contracts. Possible candidates include the Joint Board of Control, the Milk River Project Development Association, the Milk River International Alliance, and the St. Mary Rehabilitation Working Group. What groups in the basin have the capacity and expertise to oversee contracts that may range up to a million dollars or more?
- Although the State would like to see a local group fulfill this role, the State is prepared to stand in while a local entity builds its capacity. This question must be resolved by the next Working Group meeting.

Review 4-Year Project Timeline

Paul Azevedo reviewed a 4-year timeline put together to give everyone an idea about some of the steps to be taken in the next four years. Paul admitted the timeline is very aggressive. The timeline calls for getting started on any required studies by fall '04. Legislation to seek federal funding for final design and construction of the preferred alternative would be submitted in February '06. The first construction contract would be awarded in fall '07.

Action Items

- Lt. Governor Ohs challenged the irrigators and others who benefit from St. Mary's to raise \$100,000 toward the cost share for rehabilitating St. Mary's. The State is investigating several alternatives to match the basin's funds.
- Lt. Governor Ohs asked that the various interests groups decide among themselves who their representative would be. He would like to see the Working Group scaled back to 12 – 15 members. They should be ready to announce their representatives by the next meeting.
- DNRC will ask USBR to meet with them on January 29th to review the St. Mary engineering information.

Next Meeting

The next Working Group meeting will be held on February 18th. Possible agenda items include:

- Report on meeting between Lt. Governor and Commissioner Keys

- Report on DNRC meeting with USBR
- Report on Lt. Governor's meeting with Blackfeet Tribal Business Council
- Identify Working Group representatives
- Identify non-federal lead entity for contracting oversight
- Review draft of federal legislation
- Review Process agreement
- Report back on fund raising